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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,395	06/24/2005	David Chow	285-237 PCT US	9017
28249	7590	08/24/2006	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			WOODALL, NICHOLAS W	
			ART UNIT	PAPER NUMBER
			3733	

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/500,395

Applicant(s)

CHOW ET AL.

Examiner

Nicholas Woodall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-23, 35, and 40, drawn to bone fastener with two portions, one with a shaft and the other one with a hollow body.

Group II, claim(s) 24-30 and 40, drawn to an assembly with pivotally coupled at one end of the jaws.

Group III, claim(s) 31-34 and 40, drawn to an assembly with parts made of memory shape alloy.

2. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical feature of the Group I invention is a fastener with two portions, one with a shaft and the other one with a hollow body, the special technical feature of Group II is a fastener assembly with jaws pivotally coupled at one end of the jaws, and the special technical feature of Group III is a fastener assembly with parts made of memory shape alloy. Because the special technical feature of Group I invention is not present in the Group II or Group III inventions, because the special technical feature of Group II invention is not present in the Group I and Group III inventions, and because the special technical feature of Group III invention is not present in the Group I and Group II inventions, unity of invention is lacking.

3. This application contains claims directed to more than one species of the generic invention of Group I. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

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1. Fastener with rotatable anchor as shown in Figures 1-2.
2. Fastener with slotted sleeve and expanding parts as shown in Figures 3-5.
3. Fastener with an anchoring portion with an inner hole as shown in Figures 6-9.
4. Fastener assembly with a press fit assembly as shown in Figure 10.
5. Fastener assembly with spikes as shown in Figure 11.
6. Fastener assembly with a curved cylindrical body as shown in Figures 12-13.
7. Fastener with a cylindrical body, a shaft, and a head as shown in Figure 19.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The claims are deemed to correspond to the species listed above in the following manner:

Species 1, claims 2-5, 14-15, 18-19, and 24.

Species 2, claims 6-9.

Species 3, claims 10-13.

Species 4, claims 16 and 17.

Species 5, claims 20 and 21.

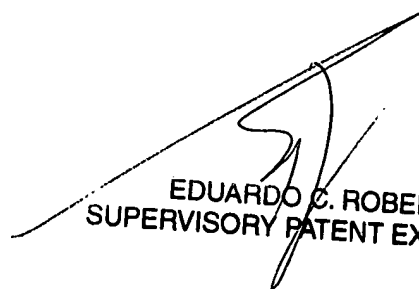
Species 6, claims 22 and 23.

Species 7, claim 35.

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The following claim(s) are generic: claim 1.

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the special technical feature of Species 1 is a fastener with a rotatable anchor, the special technical feature of Species 2 is a fastener with slotted sleeve and expanding parts, the special technical feature of Species 3 is a fastener with an anchoring portion with an inner hole, the special technical feature of Species 4 is a fastener assembly with a press fit, the special technical feature of Species 5 is a fastener assembly with spikes, the special technical feature of Species 6 is a fastener assembly with a curved cylindrical body, the special technical feature of Species 7 is a screw with a cylindrical body, a shaft, and a head. Because the special technical feature in Species 1 is not present in Species 2-7, because the special technical feature in Species 2 is not present in Species 1 or Species 3-7, because the special technical feature in Species 3 is not present in Species 1-2 or Species 4-7, because the special technical feature in Species 4 is not present in Species 1-3 or Species 5-7, because the special technical feature in Species 5 is not present in Species 1-4 or Species 6-7, because the special technical feature in Species 6 is not present in Species 1-5 or Species 7, and because the special technical feature in Species 7 is not present in Species 1-6, unity of invention is lacking. The structural limitations set forth by claim 1 are shown not to be novel with respect to Sevrain (U.S. Patent 5,707,373). Therefore, the technical feature of a bone fastener with two portions, one with a shaft and the other one with a hollow body is not the special technical feature for the Group I invention and justifies the election of species requirement.



EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER